

**UNITED STATES DISTRICT COURT**

## DISTRICT OF NEVADA

Shelly J. Newton,

Plaintiff

V.

## County of Clark Nevada, et al.,

## Defendants

2:17-cv-03064-JAD-VCF

## Order Dismissing Case

On December 18, 2017, I ordered pro se plaintiff Shelly Newton to file a fully completed application to proceed *in forma pauperis* or pay the \$400 filing fee, and I gave her 30 days to do so.<sup>1</sup> That thirty-day period has now expired, and Newton has not filed a completed pauper application, paid the filing fee, or otherwise responded to my order. I warned Newton that I would dismiss this case if she failed to comply.<sup>2</sup>

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>3</sup> A court may dismiss an action with prejudice based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.<sup>4</sup> In determining whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with

<sup>1</sup> ECF No. 3.

<sup>2</sup> *Id.*

<sup>3</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

<sup>4</sup> See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 local rules, the court must consider several factors: (1) the public's interest in expeditious  
2 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the  
3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
4 availability of less drastic alternatives.<sup>5</sup>

5 I find that the first two factors weigh in favor of dismissal. The risk-of-prejudice factor  
6 also weighs in favor of dismissal because a presumption of injury arises from the occurrence of  
7 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.<sup>6</sup> The fourth  
8 factor is greatly outweighed by the factors in favor of dismissal, and a court's warning to a party  
9 that her failure to obey the court's order will result in dismissal satisfies the "consideration-of-  
10 alternatives" requirement.<sup>7</sup> Newton was warned that her case would be dismissed if she failed to  
11 file a completed pauper application or pay the \$400 filing fee.<sup>8</sup>

12 Accordingly, IT IS HEREBY ORDERED that this action is **DISMISSED without**  
13 **prejudice** to Newton's ability to refile her claims in a new, separate action based on her failure to  
14 comply with my December 18, 2017, order.

15 The **Clerk of Court** is directed to **CLOSE THIS CASE**.

16 DATED: January 26, 2018.

17   
18 U.S. District Judge Jennifer A. Dorsey

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24 <sup>5</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130; *Ferdik*,  
25 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

26 <sup>6</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

27 <sup>7</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

28 <sup>8</sup> ECF No. 3.